

Chapter Four -- The Law

Disagreements often arise between tenants and landlords because of a lack of understanding of law and of the rights and responsibilities of both parties. They may end up in court because communication has stopped entirely. It is hoped that the following synopsis of the **Uniform Residential Landlord/Tenant Act of Tennessee** will help settle disputes in a rational fashion without the necessity of litigation. On the other hand, people should not shy away from hiring an attorney when a clear-cut case of bad faith warrants it. Many times the plaintiff--whether tenant or landlord--can collect his attorneys fees and court costs from the other party as part of "damages". **For legal resources, check the HELP! section of this book.**

This chapter is a simple explanation of basic law; it is not meant to be legal advice. A copy of the Act can be found in the public library in the Tennessee Code Annotated, beginning at Section 66-28-101. The Act pertains only to Bradley, Hamilton, Davidson, Knox and Shelby counties.

The **Chattanooga Housing Code** is also included in this chapter.

For information on the **Federal Fair Housing Act** barring discrimination, see Chapter One.

THE BASIC COVENANTS

The Landlord/Tenant Act deals with promises and obligations and is based on fairness and reasonableness.

Implied in any lease agreement are the landlord's promises to provide "quiet enjoyment" (non-interference with the tenant's peace of mind) and a "habitable" dwelling that is maintained in a fit and safe condition.

The tenant's basic promises are to pay rent on time, to take care of the property and to make "proper use of the premises" including obeying rules and not bothering other tenants.

If either party fails to live up to these fundamental covenants, the contract is "breached" (broken), and the injured party may have the right to sue.

ACCESS TO THE UNIT

Tennessee law strictly limits the landlord's right to enter the tenant's unit without permission, but the law is frequently abused. A landlord may enter without permission in case of emergency, such as a suspected fire, or to make urgent repairs affecting the safety of his tenants. He may also enter without permission in the event of the tenant's extended unexplained absence (see Abandonment in Ch. 4.)

Some leases ask tenants to grant "free access" in advance so that the landlord or others may enter unannounced for pest control, maintenance, or inspection. Even though one may have signed a lease with a "free access" provision, it is not enforceable in court. **Landlords cannot make tenants waive privacy rights guaranteed in the Landlord/Tenant Act. They must have consent to enter to repair, supply services, inspect or exhibit the premises unless they can prove "circumstances demanding immediate action"**(TCA 66-28-403(b)). Public and subsidized housing are exceptions.

However, a tenant may not "unreasonably withhold" permission! All parties must be "reasonable" in agreeing on a time. Trouble often arises when the rental house is for sale, and the tenants feel harassed when the landlord or real estate agent wants to show the house in the evening or when the tenant is at work. **Landlords and agents must give notice and make appointments; they cannot come and go at will, or just announce when they are coming.**

A landlord who repeatedly barges in unannounced has broken the promise of "quiet enjoyment" implied in all rental agreements. With proper documentation, the tenant may sue for breach of contract and "trespassing".

In no case may the tenant change locks without permission from the landlord. The owner/manager

must be provided with keys to all locks installed by the tenant, including those on garages and storage areas. Locking the landlord out is certainly grounds for eviction!

MAINTENANCE AND REPAIRS

Poor maintenance is one of the chief complaints of tenants. Sometimes they withhold rent in an attempt to force the landlord to make repairs. Usually this tactic results in an eviction notice. **The court does not regard poor maintenance as a reason to withhold rent, even if it is escrowed.** The landlord guarantees that the unit is livable when he signs a lease agreement. It's one of the basic "covenants," or promises, that he legally must make to tenants. This "warrant of habitability" protects tenants from serious maintenance problems (see Chapter Three). For smaller breakdowns, tenants should . . .

. . . GET REPAIRS THE RIGHT WAY!

- Call the landlord (be cordial, not crabby!) to discuss the problem and determine the day/time he'll **(a) call you back or (b) send someone over.** If you created the problem, you probably will have to pay to have it fixed, but it is important to report the situation to the manager as soon as possible.
- Immediately send a note summarizing your phone conversation and describing the problem. Be sure the note is DATED... and keep a copy. **This "written notice" is the legal key that guarantees that your options and rights will remain open in the future.**
- If the landlord gets back to you at the appointed time, the repairs will probably be made. Relax and be patient. It will take time to schedule a plumber, order the part, etc. The law states that he must do the repair within a **"reasonable time."**
- What is "reasonable time"? It could be 2 days for a plugged-up toilet, or 2 months for a leaky roof.....it all depends on the situation! **A landlord who intends to fix the problem will communicate, not go into hiding!** If the landlord ignores you, keep a diary of phone calls and events pertaining to the problem.
- If a reasonable time has passed and the landlord hasn't acted in good faith, you may want to call the Housing Info Line or the Fair Housing Office for advice. **Under certain conditions, the Landlord Tenant Act gives you the right to (1) get and save several estimates, (2) pay for the repair yourself, and (3) deduct the cost from your rent.** However it is best to let your landlord know in advance that you intend to do this. He/she may not even be aware that you have this right! He/she may be happy to have you take care of it. Generally, if you broke it, you will pay for it anyway. If it just "wore out", the landlord should pay.

ESSENTIAL SERVICES

The right to pay for repairs and deduct from rent is guaranteed only when "essential services" have been interrupted. This is a somewhat vague area of law, but certainly heat, water, gas, hot water, and a working toilet are deemed essential. A working stove, refrigerator, air conditioner and locks are arguably "essential". If you report a problem in writing and it's not fixed within a reasonable time, you may:

- **Pay for the repair yourself and deduct from rent, or**
- **Move to a hotel or other rental and recover costs from the landlord, or**
- **Stay in the unit and ask (or sue) the landlord to reduce rent based on "loss of use" or "reduced value".**

SAVE ALL CONVERSATIONS AND DOCUMENTATION!

YOU GET WHAT YOU PAY FOR!

Tenants who obsessively complain often don't have their lease renewed. Make small repairs yourself,

especially if you don't live in a complex with a full-time maintenance man. Occasionally let the landlord know that you changed the furnace filter or fixed the screen door. He may be less likely to raise rent if you keep an eye on things and don't bother him. Remember, there are two types of tenants, those the landlord wants to get rid of . . . and those he wants to keep. **In lower-cost rentals, it is unrealistic to expect the same level of upkeep and supervision found in more expensive units. Even though the Housing Code and the Landlord/Tenant Act apply to all landlords equally, the amount of rent you pay often is an indicator of the effort the landlord will make to keep up the property.**

CHATTANOOGA HOUSING CODE AND THE BETTER HOUSING COMMISSION

Each housing unit in the city should meet health and safety standards set forth in ordinances governing plumbing, electrical and structural conditions. The Better Housing Commission enforces this code within city limits. Unfortunately, unincorporated areas in Hamilton County do not have a code or enforcement agency for substandard housing. Rural tenants must rely on provisions in the Landlord/Tenant Act.

Call an inspector only after you've written the landlord about serious dilapidation such as a rotting floor, or when he won't respond to a safety or health threat such as faulty wiring, plumbing, or sewer problems. The inspector will give the landlord a reasonable time to remedy a list of specific code violations. If this fails, the landlord may be cited to court and fined. Remember though, you may have to move on very short notice (10 days!) if the property is condemned or if repairs are substantial.

"Retaliatory Eviction" is illegal, but landlords can find ways to make tenants "pay" for reporting violations. The best time to file a complaint is after you've found another place to live, and just before vacating his unit. You may save the next tenant some pain. But . . . never think that you can avoid paying rent by reporting your landlord to an agency!

SOME CODE PROVISIONS FOLLOW:

- **Safe & adequate wiring and electrical system**
- **Free-flowing water throughout plumbing system**
- **At least one window per room**
- **Hot & cold potable water**
- **Properly installed shower or tub**
- **At least 2 electrical outlets per room**
- **Porches, balconies and every stair in safe condition**
- **Sound roof which doesn't admit rain or dampness**
- **Safe solid walls, floors, ceilings, roofs**
- **Structure substantially rodent-proof**
- **One smoke detector per floor**
- **Safe lighted entryways and halls**
- **Weather tight walls and windows**
- **Operable locks on all doors and windows**

RETALIATORY EVICTION

It is a violation of law when the landlord tries to punish the tenant for asserting his/her legal rights. If an angry owner tries to throw the tenant out, or suddenly imposes a rent raise or restrictions, or reduces services in some way, the tenant should keep a diary of dates of these events. A court of law may recognize that these acts are in retaliation for "seeking remedies granted to you by law." People with leases have much better protection than those with month-to-month tenancies which can be terminated at will. (Also see Eviction in Chapter Four.)

UNDER THE ORDINANCE THE OCCUPANT MUST:

- **Set garbage on the curb the evening before pick-up, not earlier! CANS CANNOT SET OUT MORE THAN 12 HOURS.**
- **Keep the unit free from dirt, garbage, rodent and vermin.**
- **Keep plumbing (toilets, drains, sinks, dishwashers, etc.) free from obstruction.**

- **Keep the smoke detector in working order.**

If your neighbor routinely sets garbage on the curb more than 12 hours before pick-up, call the Better Housing Commission. **YOUR DAMAGE DEPOSIT . . . YOUR DAMAGE**

One of the promises that you make when you rent an apartment or a house is not to damage it, either deliberately or out of inattention and neglect. To do so could be cause for eviction and lawsuit.

Most landlords require a security or damage deposit--often in the amount of an extra month's rent--to cover potential damage to the unit. **Get a signed and dated receipt for your deposit, and be sure it is written into your lease. Tennessee law requires the landlord to tell you where this money is banked in a special "escrow" account.** If you, your children, and guests take good care of the unit, the hallways, and other common areas, you are entitled to return of this deposit, even if you live there for many years.

If the landlord sells the building, your lease will remain in effect and the damage deposit should be transferred to the new owner. Stay on top of things. **Ask in writing if the new owner will take possession of the escrow account.** Make a dated note of the response for your file. Both owners can be held jointly liable if you must sue to recover the deposit.

If you break your lease you will probably forfeit your deposit. Even if you notify the landlord and leave your place spotless, leaving before your term is up will cost you. Read your lease carefully! Pet and cleaning **fees** are non-refundable regardless of damage.

LANDLORDS MUST ESTIMATE THE COST OF EACH ITEM FOR WHICH YOU ARE BEING CHARGED BEFORE THEY CAN KEEP YOUR MONEY. IT'S THE LAW!

WHAT IS DAMAGE . . . AND WHAT IS NOT

Tennessee law specifies that the tenant is responsible for damage to the unit, but is not responsible for "normal wear and tear." This gray area is where many disputes arise. Sometimes it is hard to tell the difference. The landlord definitely should not deduct from your deposit for cleaning or repainting (unless your lease says so) or for ordinary repairs such as loose hinges, leaky faucets or minor scratches or spots.

Landlords (and judges, if it winds up in court) look at both the extent and the cause of the damage. If you were so careless or neglectful that you caused or aggravated the problem, you'll probably pay for it. Also, if you violated specific lease provisions regarding certain damages (such as nail holes), they are likely to be deemed "damage".

Generally, landlords with new or well-maintained units will be more particular about the way you treat their property. They notice the little things, and are very sensitive about the cost of repairs. Expect to be charged accordingly.

ABUSE DOES NOT MEAN ORDINARY WEAR AND TEAR RESULTING FROM NORMAL USE!!

Tenant tip: If the landlord doesn't inspect within three business days of your vacating the unit (turning in the keys), he must--by law--refund your entire deposit. He will have to sue you later for damages. (Tennessee law effective July 1997.)

Tenant tip: When you first move in, make a list of existing conditions and damages and ask the landlord to sign it. Less professional landlords may not be accustomed to this procedure and become defensive, so be cordial and show him/her this section of the book. He knows it's good business to record or photograph conditions for which you may later be held liable.
EXAMPLES OF WEAR AND TEAR:

Minor scratches & dulled finish on cabinets or woodwork

Slightly dirty or rubbed wallpaper, window or light covers

Linoleum or carpet faded, worn spots, loose at edges, minor scrapes and spots (depends totally on age and quality!)

Enamel on fixtures or tile is slightly scratched, rusty or stained; grout is loose; worn out switches; minor leaks

Nail holes, tape marks, or cracks in wall from settling

Oven or refrigerator slightly discolored

Partially clogged sink due to aging pipes

EXAMPLES OF DAMAGE:

Missing doors or handles; split wood, gouges, burns, noticeable and unsightly stains and scratches

Unauthorized wallpaper or paint color; crayon markings, ruined paper, missing or broken blinds

Pet urine, fleas, stench, holes, unremovable stains, burns

Holes and chips in enamel, bent rods, missing parts or tiles, broken mirror, cabinet or lights

Large holes in walls, doors; broken windows and screens; missing fixtures & furnishings

Oven heavily encrusted; fridge moldy & smelly

Toilets clogged from improper flushing

Rotting wood frames or flooring is generally the landlord's problem, but if the damage occurred because you were careless in closing the shower curtain or window, or didn't report leakage under the toilet or sink, you may have created a very expensive repair for the landlord and will probably be sued for costs over and above your deposit.

The Landlord Tenant Act is clear about the steps both you and the landlord should take when you move out and want your deposit back. (See "Leaving Your Rental" in this chapter.) **Within 3 business days after you move out, the landlord is required by law to give or mail you a "comprehensive" list of the damages you created, and an estimated repair cost for each one that he is charging against your deposit.** If possible, inspect the unit with the landlord to ascertain the accuracy of the list. It is wise that you agree to take care of this as soon as possible. After cleaning and repairs begin it will be difficult to determine fault.

TENANT TIP: If you move before the final inspection takes place, be sure to let the landlord know in writing where to send the damage list and refund (keep a you-know-what). If he can't find you at your "last known address", he may lawfully keep your deposit.

The landlord will ask you to sign the list of damages. If you disagree with certain items, negotiate calmly. If you absolutely can't come to agreement, you may (1) refuse to sign it (2) ask for a copy and a Statement of Dissent form. Write one up yourself if the landlord doesn't know what you are talking about. **Landlords sometimes assume that the deposit is theirs to keep regardless of careful use.** This is thievery and you should take the matter to General Sessions Court yourself or with an attorney. Both parties might agree to have the issue mediated by the Better Business Bureau (see Help! Section) and save on legal costs. Your claim in court will be limited to the *exact items* you listed in your Statement of Dissent, so don't go to the trouble to sue unless you have "move-in" and "move-out" condition lists and the landlord has charged you for lots of wear-and-tear items or for expensive items that you can prove you didn't damage. Your documentation/photo file will serve you well if you must take the landlord to court to get what is due you.

CLEANLINESS: Read your lease! Some contracts demand that you leave the unit in the same condition

that you found it or pay to restore it. This may include cleaning the carpet, all drawers, shelves, oven, tub, windows and blinds. If cleaning costs are charged against your deposit, they must be itemized.

WARNING: Many smaller landlords either don't know about or don't obey proscribed law regarding damage (security) deposits. Ask other tenants who are leaving whether they've been fairly charged and received their money within 30 days. If your landlord has a reputation for dishonesty, you might decide to subtract the amount of your deposit from your last month's rent, even though leases often prohibit this. Be ruthlessly honest in assessing your own destruction--and motives-- before you do this. You can't avoid paying for damages this way because the landlord can always sue you later.

LEAVING YOUR RENTAL

When the time comes to end the relationship with your landlord, keep in mind how important his reference will be when you rent again or try to buy a house. **Never just abandon the property!**

1. **Clean the place up and leave the unit as you found it.**
2. **Turn in the keys; otherwise the landlord can claim no knowledge of the vacancy and may continue to charge rent.**
3. **Arrange for a damage inspection within three days after you leave.**
4. **Leave a forwarding address for return of your deposit.**

At the End of a Lease Term:

You are required to give the landlord 30 days notice in writing if you don't intend to renew the lease. This will prevent "automatic renewal" which is a provision of some leases. If you've had an agreeable experience, you might ask for a written reference on your landlord's letterhead.

Early termination of a lease:

If you must leave before the lease is up, your lease will usually stipulate the amount you must pay to "buy out" the contract--usually one or two months' extra rent and forfeiture of your deposit. **The landlord will hold you to this agreement.** Sometimes tenants aren't able to pay this early termination fee and they leave without making financial arrangements. Landlords will often sue to recover the debt, **and may wait up to a year to file.**

If you've rented the unit for at least a year, some landlords will void your lease without charge for "good cause" such as illness or death, marriage, out-of-town job or homebuying. Negotiate early and get promises in writing.

The landlord might agree to let you sub-let the apartment to another tenant (provisions are sometimes included in the lease), but the damage deposit is usually forfeited. Terms of this agreement should be written, and clearly show whether the original tenant remains responsible for any part of the rent if the sub-lessor doesn't work out.

Accidental termination:

If a tenant can no longer live in the unit because of fire or other damage, he/she should turn in the keys and notify the landlord within 14 days--in writing--of his intent to terminate the lease. Keep copies! If these steps are taken, the landlord is required to return deposits and adjust rent from the date of the casualty. This is known as "constructive eviction" under the law.

Abandonment: Liens on Property

The Landlord/Tenant Act requires that tenants notify the landlord when leaving the unit for more than seven consecutive days. If the tenant is absent "in excess of 7 days" without explanation--and if the landlord has solid evidence (witnesses, utilities shut off, etc.) that supports his "reasonable conclusion" that the tenant has walked off--he may enter the unit to determine whether it's "abandoned". If abandonment is obvious, he can re-rent the unit without any court action.

In the absence of good evidence, the landlord must wait 30 days and miss a rent payment before he can presume that the tenant isn't coming back. If the tenant's possessions are left behind, the landlord must safely store them for 30 days, and then may sell them and keep whatever money is owed. Any excess must

be held for the tenant for 6 months. Regardless of lien provisions in some leases, the landlord may dispose of the ex-tenant's stuff **only after he has filed a UCC-1 lien with the State.**

Whatever you do . . . DON'T GET EVICTED!

It's expensive . . . it's traumatic . . . and the consequences can haunt you for years.

Here's a typical situation: **Al is late with rent--again.** Landlord, who depends on rental payments to make his mortgage payment, gives a 30-day notice to move out. Instead of packing up his stuff and finding friends to stay with, **Al goes into a state of "denial"** thinking it will go away like a bad dream.

Thirty days pass. Al's still there and owes another month's rent. Landlord files suit to repossess the unit and recover what he owes. On court day, the Judge asks Al to pay \$800 in back rent, \$80 late fees, and \$300 for the landlord's court and attorney fees. Al doesn't have the \$1180, of course, so it is reported to the credit bureau, **a red flag to all future landlords that Al is "a bad tenant".**

Ten days later the landlord and sheriff show up and **throw Al's stuff in the street.** Passers-by hover like vultures when they spot his c.d.s and glad rags in the gutter.

The landlord goes back to court to **garnishee Al's wages** and he's fired as a result.

Yes, it's a real sad story . . . and it happens every day.

THE EVICTION PROCESS

Because of competition for affordable rentals, the trend in the last few years has been to evict quickly. The landlord knows he can easily re-rent the unit. If you can't fulfill the conditions of your lease, don't expect the landlord to be as lenient as in the past.

TENANT TIP: Do all in your power to avoid eviction! Keep an extra month's rent stashed in a safe place for emergencies. If you know rent will be late, communicate early! You might offer a partial payment along with a Promissory Note stating the exact date(s) you intend to pay the rest. If you're lucky, your landlord may delay filing a Detainer Warrant. Then pay as promised or you're history!

The 4-step process described on the next page usually begins when the tenant fails to pay rent on time or breaks some other provision in the lease or rules. All landlords in the Hamilton County must follow these steps! **Usually the best thing is to get out within 30 days and avoid some of the attorney fees.** Put your stuff in storage and move in with friends or relatives until you can get back on your feet. City or County Human Services might pay one month's rent if you prove you can pay the following month (see HELP! Section).

During the eviction process the landlord cannot:

- Lock you out
- Cut off utilities
- Remove appliances
- Throw you or your stuff out
- Threaten to harm your person or possessions

If this happens, **call the police and get a copy of the report.** Make an appointment with Legal Services or another attorney. Keep a record of all events.

ACTION

1. Landlord gives WRITTEN NOTICE TO "QUIT THE PREMISES" by a certain date. If you don't leave by then, the formal court process will begin. (See section on *Notice* in this chapter).

2. If you're not out when the notice time is up, the landlord may take you to court to regain possession of the property and to collect back rent. The judge will issue a **DETAINER WARRANT** which is delivered to your home or job. This is a legal eviction notice (not an arrest warrant) which shows where and when to appear in court. Even if you catch up on rent, it's probably too late to stop the process.

3. Whether or not you show up on the **COURT DATE**, the judge orders that you vacate the unit and pay all back rent, court costs, and attorney fees. If you don't have the money, this "judgment" is recorded later on your credit report, and the landlord may garnishee your wages (see *Court Day* and *Garnishment*).

4. The landlord gets a **WRIT OF POSSESSION** to put your stuff on the street and lock the place up. He's fed up with the hassle. Your reference from him is shot.

TIME FRAME

At least 30 days if you pay monthly; at least 10 days if you pay weekly; **or as otherwise stated in your lease (Did you sign away your right to receive notice?)**

Sessions Court date is usually 2 weeks after receiving warrant. It must be at least 6 days later.

Judge gives final 10 day order to be out.

Could be the 11th day following court date.

EVICTIION NOTICES MAY VARY

The type of eviction notice you receive depends on the type of lease violation. **Notice must always be in writing** and delivered to you or another adult in the house. **If it is sent by certified mail--and you fail to sign for it--it is still considered legally "delivered."**

TYPE: Cancellation of a month-to-month tenancy. Where there is no lease agreement, a "reason" is not necessary for termination. There may or may not be any violation of your agreement on your part.

TERM: At least 30 days before the next date that rent is due. In many cases this may require more than a 30 day notice. For example: if rent is due on May 1, and you receive your notice on April 20, your final day to be out should be May 30th.

TYPE: Late rent paid on a monthly basis. Note: you may have a grace period of a few days written into your lease. Notice can be delivered immediately after the grace period ends.

TERM: Thirty days unless otherwise stated in your lease. Some larger complexes may use lease language that waives your right to 30 days' written notice. You are presumed "notified" of a pending eviction

whenever rent is late. You may get a "demand for full payment" with a due date. After that, you will get a detainer warrant or a letter from an attorney (with legal fees added).

TYPE: Late rent paid on a weekly basis.

TERM: 10 days notice.

TYPE: Some rule of the lease is broken (other than late rent). This could include noise, unauthorized guests, parking, negligent damage or other violation, which should be stated in the notice.

TERM: This is a warning notice. You are given 14 days to correct the situation, but if it happens again within 6 months, you can be evicted with one more 14-day notice.

TYPE: Tenant threatens safety or welfare of other tenants or their property. This could include theft, vandalism, drunk driving, fighting, out-of-control guests, or other acts **or threats** of violence.

TERM: When serious breakdown occurs, only 3 days notice is required (T.C.A. 66-28-517). There must be a witness to the violation. **Remember: you are legally responsible for the behavior of your friends and children.** If the landlord has to call the police, you might lose your lease.

TYPE: Sale of narcotics or prostitution on premises (law went into effect July 1997 as the Crack House Bill).

TERM: If neighbors present good evidence of drug dealing or prostitution at a certain address to the District Attorney, he can order the landlord to give you a 10-day eviction notice.

COURT DAY

BE THERE!

The detainer warrant will show time and place. Show up on time and plan to spend about 3 hours because the docket may be full. If you don't show, the landlord can automatically be granted whatever rent he claims you owe. Be in court (even though you may know you'll lose) with rent receipts--especially for any rent you've paid since receiving the notice of eviction.

BE SQUARE!

Guys . . . lose the baseball cap! Wear a suit or jacket and tie. Put the long hair in a pony tail. Let's face it, courts are mainstream System. Your appearance tells the Judge whether you take the situation seriously or not. Women should wear conservative business clothes and avoid a sexy image.

BE PREPARED!

The Judge will ask a few questions. Listen! Then answer directly and submit your documentation. Don't vent your spleen or try to list all the misdeeds of the landlord. Stay with the issue at hand and get to the point! If you're in court because you haven't paid rent, don't choose that time to talk about poor maintenance, unless you've followed the law in paying for repairs yourself (see *Maintenance* in this chapter). **Repair problems are not a legal reason to withhold rent unless the unit is truly uninhabitable.** Practice beforehand if you want to bring important new information to the proceeding. Make your points briefly and clearly and look the judge in the eye.

BE AWARE!

Like it or not, you're in the presence of POWER. Be respectful and be humble. **"Attitude" will get you nowhere fast!** The judge has heard a million cases and all the excuses and sob stories too. He got where he is because he's very quick and perceptive. He will know by the organized way you present yourself if your story is worth listening to. **You will prejudice the court against you if you become loud, whiny or argumentative, or if your story is hard to understand.**

JUDGMENT/GARNISHMENT

You will have 10 business days after your court date to pay the amount awarded by the court to the landlord. This may include back rent, late fees (not to exceed 10% of rent owed), cost of damages (if it exceeds your deposit), **and at least one-third of the landlord's attorney fee and court costs (which usually add another \$250 or so to your bill).**

If the judgment isn't satisfied, the landlord can garnishee your wages, which means he has the right to have your employer deduct the amount of the judgment from your paycheck. Some employers will fire an

employee if this happens.

Payment Plan to Avoid Garnishment

If you don't have the money to satisfy the judgment, ask the clerk of General Sessions Court to file a motion to make affordable payments to the court at regular intervals. You must sign an affidavit swearing that you are unable to pay by other means. You'll need to show proof of income (recent paycheck stub) and a list of monthly bills as proof of poverty. If this motion is granted, your wages won't be garnished as long as you **make payments as promised**.

THE RIGHT TO APPEAL

Seldom does a tenant have grounds--or the means--to appeal an eviction, but if you have good documentation that your rights were violated, you can file an appeal **within 10 days of the Judge's decision**.

Grounds for appeal might be:

- **You are subject to retaliatory eviction.**
- **You have received a 3-day notice and you know the landlord is using it improperly.**
- **You failed to receive proper notice.**
- **You see a pattern of discrimination** against minorities, disabled people (including AIDS), women with children, or religious groups.
- **A new owner is not honoring your lease agreement** that he inherited when he bought your building.
- **The landlord is evicting you for personal reasons** rather than lease violations. You must have witnesses and documentation.

Don't waste time and money on an appeal if your rent is behind or if the landlord can show a history of complaints about you. If you appeal for "lack of proper notice," it will be very hard to prove that you didn't get it unless you can show a pattern of the same behavior with other tenants. You need witnesses for all allegations. Get your case together!

You can go to the General Sessions Court Clerk's Office and file the appeal yourself, but it's best to get a lawyer. **An appeal will not allow you to stay in the unit longer unless it's a special situation handled by a lawyer.** The Judge will embarrass anyone filing a "frivolous" appeal in an attempt to foil the system!

Note: To appeal both the judgment and the right to stay in the property, the tenant must post a cash Appeal Bond equal to one year's rent. If the tenant loses the appeal, the whole debt (back rent, damages, and court costs) will be subtracted from the bond.

If the tenant is willing to move out but is protesting the money judgment, and is unable to post a cash bond because of "poverty," he may sign a Pauper's Oath in lieu of an Appeal Bond and swear that he is "justly entitled" to seek relief from the judgment of the court.